Pt. V

1950-51

File No. 571/48

P.W. DEPARTMENT

E1 BRANCH

B CLASS.

Subject:— Rating Committee:-

Appointment of under sec. 57

of Electt. (Supply) Act. 1948

IV

B[K] 1951

Pt. V

File No. 571/48 Bor. E1.

Eld. Scott. Slip. 24 A

G. R., G. D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No. 571/48

P.W. **DEPT.**

EI **BRANCH.**

References :—

Copies from main BCM) 1951

Date.	To whom sent.	Notes and instructions.

No. 6730/36(1) -El.(I).

Public Works Department,
Bombay Castle (Bombay No. 1),
1st February 1950.

From

The Secretary to the Government of Bombay,
Public Works Deprtment.

To

1. The Bhusawal Electricity Company Limited.
2. The Chalisgaon Electricity Company Limited.
3. The Amalgamated Electricity Company (Belagum) Limited Bhivandi Branch.
4. The Amalgamated Electricity Company (Belgaum) Limited Bulsar Branch.
5. The Amalgamated Electicity Company (Belgaum) Limited, Belgaum Branch.
6. The Malegaon Electricity Company Limited
7. The Dohad Electricity Company Limited.
8. The Jalgaon Electric Supply Company Limited.
9. The Surat Electricity Company Limited.
10. The Dharwad Electric Supply Company Limited.
11. The Nasik-Deolali Electric Supply Company Limited
12. The Broach Electric Supply and Development Corporation Limited.
13. The Yeola Electric Supply Company Limited.
14. The Manmad Electric Supply Company Limited.
15. The Viramgam Electric Supply Company Limited.
16. The Satara Electric Supply Company Limited.
17. The Matheran Electric Supply Company Limited.
18. The Bassein Electric Supply Company Limited.
19. The Godhra Electricity Company Limited.
20. The Sinnar Electric Supply Company Limited.
21. The Nadiad Electric Supply Company Limited.
22. The Anand Electric Supply Company Limited.
23. The licensee, Palghar-Navli Electric License, 1939.

Subject:- Electric Supply Act 1948: Prescribed period for depreciation of assets.

Dear Sirs,

With reference to your application on the above subject, I am directed to state that Government is taking steps to obtain a report on the physical condition of the assets of your undertaking with a view to see whether the prescribed period of depreciation under the Electricity (Supply) Act, 1948, requires variation in your case. Until Government issues orders in this connection, you are permitted under clause X of the Sixth Schedule to the above Act, to maintain the status quo ante during the current financial year in respect of the reserve, dividends, distribution of profits, etc.

Yours faithfully,

(G. V. Bedekar),
for Secretary to the Government of Bombay,
Public Works Department.

D.A.:- Nil.

Copy forwarded for information to
the Secretary, Association of Electrical Undertakings Bombay Province, Killick Building, Home Street, Bombay, with reference to his letter No. AEU/15/673/50, dated the 16th December 1949,
The Electrical Commissioner with the Government of Bombay,
the Electrical Engineer to Government,
the Chairman, Rating Committee.

The Govt. may be requested to say whether the committee's work should proceed on the assumption that the

prescribed period is not to be varied; or whether the work should be held up pending Govt's decision.

Sd/-
Chairman, Rating Committee.

U.O.R. to P.W.D., dated 4th February, 1950

571/48.

Work of Rating Committees.

Since the issue of the press note in December 1949, the following 15 licensees have so far applied to Govt. for the constitution of Rating Committees to examine the charges for the supply of energy and such committees have been constituted in respect of the first 11 licensees and they will be constituted in respect of the remaining four licensees shortly.

(1) The Matheran Electric Supply Coy., Ltd (23.12.49)

(2) The Bassein Electric Supply Coy., Ltd (30-12-49)

(3) The Godhra Electric Company Limited (19-1-50)

(4) The Anand Electric Supply Coy., Ltd. (19-1-50)

(5) The Nadiad Electric Supply Coy., Limited (19.1.50)

(6) The Sinnar Electric Supply Coy., Ltd. (19-1-50)

(7) Shri K.V. Sane, Licensee, Palghar Navli Electric License (3.3.50)

(8) The Sangamner Electric Supply Coy., Ltd. (3-3-50)

(9) The Rander Electric Supply Coy., Ltd. (20-3-50)

(10) The Manmad Electric Supply Company, Limited

(11) The Yeola Electric Supply Company, Limited.

(12) The Fatte Electric Supply Coy., Ltd., Deesa.

(13) The Amreli Electricity Coy., Ltd.

(14) The Ahmednagar Electric Supply Coy., Ltd.

(15) The Sanand Electric Supply Coy., Ltd.

2. With specific reference to the first committee for Matheran the Assn. has complained of the delay in the work of the Committee and has suggested that Govt. should prescribe time limit for submission of recommendations by the Rating Committees. It is difficult to prescribe such a limit since the time in each case will depend upon a variety of factors, including the number of parties other than the supply coy. the interest taken by them, the complexity of the accounts and so on. The Rating Committee for Matheran has commenced its work in earnest and will probably conclude

it very soon. From the nature of the case it is evident that such committees cannot finish their work with in a couple of weeks as suggested by the Assn. A representative of the Assn. is on the committee and it would be for him to use his good offices to expedite the work of the Committee. any constructive auggestions that may be made in the matter will be welcomed and carefully considered by Govt.

The Rating Committees are fully aware of the necessity of completing their work as quickly as possible and as experience is gained it is expected that the time reqd. to submit recommendations will be gradually curtailed.

Id
30/3/50

Applications by licensees for variation in the prescribed period of their assets.

The proviso to the definition of 'Prescribed period in clause XVII (8) of the sixth Schedule to the Electy. (Supply) Act, 1948, contemplates that on the application of the licensee, the State Govt. may vary the prescribed period in respect of any assets in use on the 10-9-1948, having regard to the physical conditions of such assets The Association has urged for the speedy disposal of these applications. So far such applications have been received from 32 licensees.

3. For this purpose, Govt. has to depute one officer of the Grid Deptt. specially to inspect the assets of the various undertakings and report on their present condition, with such details, as, whether purchased new or second hand, year of purchase, cost, amounts spent on repairs to date, depreciation allowed in books so far, etc., etc. and recommendations re: the future life of each machine. So far reports of the Special Officer have been recd. in respect of 21 undertakings some reports are awaited and some are recent applications which are to be referred to him for report.

3. The first reports of the special officer to be considered by Govt. were of the Matheran and Bassein Coys. A conference between the El. Engr., Mr. Yagnik, Special officer and the Dy. Secy. was held recently to decide the general line of action to be taken in deciding the life of various assets.

Orders about the variations in the periods of depreciation of assets in respect of the Bassein El. Supply Co. have since been issued on the lines of the decision arrived at this conference. Orders regarding Matheran Coy's assets have been kept pending till the reinspection by the special officer of the power house there, since it is understood that the Coy. has replaced its old and worn out sets by those which it removed from Bassein and carried to Matheran. Reports of inspection of the special officer and his recommendations regarding the other Coys. are being scrutinised carefully, bearing in

Secy. has since instructed that since the Matheran Co. desires to get Govt. decision on the variation of the period of depreciation on the basis of the old sets at Matheran. We may proceed with this case & issue order. The case will be submitted accordingly

Id 30/3/50

mind the likely effect of the periods of depreciation on the (supply) rate structure. These will be put up shortly for orders.

4. In the meanwhile 24 licensees have been permitted under clause X if the sixth schedule to the Act to maintain status quo ante during the current financial year in respect of the reserve, dividends, distribution of profits, etc.

Id
30/3/50

(All Correspondence to be addressed to the Secretary.)

THE ASSOCIATION OF ELECTRICAL UNDERTAKINGS,

Bombay Province.

Telephone No. 30901.

REGISTERED OFFICE:
KILLICK BUILDING.
HOME STREET.

Ref. No. AEU /35/998/50, Bombay, 11th May, 1950.

The Deputy Secretary to
the Government of Bombay,
Public Works Department,
Bombay.

Ref. A on p. 2 below, it is correct that when "items" specified for variation of period, ~~not~~ we should ask only about items the period for these ~~Names~~ not about others.
Id
12/5

Dear Sir,

Power Policy.

I acknowledge with thanks your letter No. 571/48-El. (I) of 27th April, which has been placed before the Council of this Association.

Rating Committees. While noting what you write over the difficulties in fixing a time limit for submission of recommendations by the Rating Committees, from reports received about the deliberations of the Rating Committee enquiring into the charges of the Matheran Electric Supply Co. Ltd., the Council are inclined to think that the Committee have allowed themselves (despite protests from our representative and the Licensee) to be concerned with a great deal of extraneous matter, whereas it should have conformed strictly to the instructions laid down in the Electricity (Supply) Act.

For example, referring to the interest taken by a number of parties in the deliberations of the Rationg Committee which you mention, it would be right to say that a Committee is charged to see that the Licensee is allowed to earn at least the defined reasonable return but not too much above it. This is a matter of the Licensee's finances about which other parties are neither in a position to know, nor entitled by the Act or any other legislation to explore. It is entirely a function of the Rating Committee. It cab be understood to be in the Public interests if genuine representatives of consumers are called towards the end of the deliberations and asked if they have any suggestions to offer upon the form of tariffs proposed (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (but not the quantum) which suggestions can be taken into account in finalising the rates to be recommended. But it is not understood that miscellaneous outside parties should be called and allowed to air their uninformed views as to the finances and other affairs of the Licensee XXXX before the "reasonable return" has been determined in accordance with law.

It appears that the Matheran Committee wish to depart from the procedure laid down by law and, after disallowing certain legally permissible expenses of the Licensee, to recommend to Government compromise charges, which are not calculated to afford the Licensee his full reghtful profit under the Act. This is said to be because the Licensee himself wishes to charge leass, but such procedure, apart from being illegal, appears to the Council to be improper for the point of view that the report of the Committee is to be published for public information, and it is but right that the public should know what the Licensee will be entitled to charge under the law. If he wished to charge less he may do so under the

Proviso to sub-clause (c) of S. 57 of the Act.

The Association's nominees on the Rating Committees are briefed to cooperate to the fullest extent possible but their task is rendered difficult by such reported departures in the Matheran enquiry by majority decision from the instructions laid down in the Act.

Depreciation & Variation in the Prescribed Lives of Assets. While the Council note that Government has in no way linked up the question of depreciation with the proceedings of Rating Committees., they still view with misgiving the slow progress made in passing orders on individual applications. The Council know of at least one instance where the Assets of the Licensee were examined some six months back and yet no orders have been issued. Government's remarks in their letter, that "cettain licensees did not indicate the definite variations desired by them in the prescribed period of the depreciation and that references had to be mzde back to them in the matter before a final decision could be taken", are not understood. In terms of the Proviso to Sub-Clause (8) of Clause XVII of the Seventh Schedule to the Electricity (Supply) Act, it is on the application of a licensee that a variation is to be authorised by Government, and where licensees have not specifically asked for any change, it is to be presumed that they accept the statutory lives provided in the Seventh Schedule. In other words, if a licensee has asked for a variation in the life of Diesel Plant alone, there would seem to be no point in asking him what changes he desires for other assets.

Bombay Power Shortage. Dealing with the remedy to meet Bombay 's power shortage, the Council, in the Association's letter No. AEU/35/362/50 of 7th March, suggested diversion of part of the Bokaro Thermal Station only if the whole could not be diverted as it felt, and still feels, the steps proposed by Government will prove quite inadequate to meet the need. The Point mentione by you about standby for a 50 MW. Unit would not seem to apply in view of the fact that such unit would itself be a standby to the Hydro system, and no standby to a standby is required. The Council were not unaware of the difficulties to be encountered in persuading the authorities to divert the Bokaro Thermal Station, but the suggestion was made in the best intention towards the interests of the country in the view that the Bokaro plant cannot be fully utilised at Bokaro for many years whereas that does not apply in the case of Bombay; and it may yet be worth while to explore this possibility.

Regarding the Press Note recently issued by Government, it does not mention the all important fact that, even nearly half a year after the Power Shortage Committee made its recommendations, no order for Thermal Plant has yet been placed, and it is felf that the public is misled into thinking that quick action is being taken. It is difficult in these circumsstances to appreciate your point that new power will be as quickly be obtainable from Government's projected Thermal Plant as it could be from the Bokaro plant, which latter is far advanced.

Yours faithfully,
Sd/-
Secretary.

571/48/38088

9

EL. Br'(I) P. W. D.

Acknowledged on 15th May 1950.

Id
13/5/50

Id
13/5/50.

El. Br. (I). P. W. D.

Submitted for persued in the first instance. Attention is invited to the Secy's remarks on p.

Id
16/5/50

Id
17/5/50.

571/48
38088.

El. Br. (I) P. W. D.

Submitted with reference to G.L. No. 571/48 El(I) dt. the 27-4-50.

2. The Assn. of Electrical undertakings has included the following items for discussion in the meeting fixed on the 6th June 1950.

(1) Necessity for issue of early orders reg: variations in the prescribed period of assetts.

(2) B'bay power shortage: Informed reg: placing of orders for Thermal Plant.

The above items are those referred to at items (II) & (III) in the Assns. letter within. The Assn. may raise discussion on item (I) of the letter also at the meeting or it may be advisable to explain the position with reference to the item in question at the meeting even though the Assn. may not raise the question.

3. The chairman, Rating Committees, and the Elecl. commission may therefore be requested to give their remarks on items (I) & (II) of the letter respectively by the 3rd June 1950 at the latest as per separate notes put up for appl.

4 Reg items (II) of the letter, the Secy's remarks have been noted. A note will be put up later in time for discussion at the meeting.

Id
30/5/50

Id
30/5/50.

571/48

El. Br. (I)

El. Br. (I). P. W. D.

A Copy of the letter No. AEU/35/998/50, dt the 11/5/50, from the Assn. of Electrical undertakings, B'bay Province, is attachad. The Chairman, Rating Committees, is requested to offer his remarks on the comments of the Assn. under the item 'Rating Committees' by saturday, the 3rd June 1950; at the latest.

Id
30/5/50

Id
30/5/50

V. Urgent.

U. O. to the Chairman, Rating Committees, dt. 31-5-50.

Office of the Chairman, Rating Committee.

The Rating Committee is a statutory body and there being no revisiong authority under the statute, it is suprising that the Association of Electrical Undertakings should have ventured to approach Government at this stage with criticism about the procedure followed and work done by the committee, on reports presumably made by the member nominated by the Association. It is not only indiscreet but wrong in principle that the Association should move Government to interfere with the procedure and deliberations of the committee.
It is presumed that the Deputy Secretary does not intend to call for an explanation, but wished to have the facts for being placed before Government.

2. It is wrong to say that the Matheran Committee have allowed themselves to be concerned with a great deal of extraneous matter. The council of the Association of Electrical Undertakings appears to have been misinformed

3. Though the Electricity (Supply) Act, 1948, does not make it obligatory upon the Rating Committee to hear the consumers, the principles of natural justice require, and in the absence of any provision in the Act to the contrary it is but expedient, that the consumers being the persons who will be vitally affected by the recommendations of the Committee are given a reasonalble opportunity of being heard.

4. At the first meeting held on the 15th January, the Committee inter alia unanimously decided that the municipality or other local authority concerned and the consumers' association or other organizations, if any, representing the consumers should be asked to put forward their views in the matter of revision of the rates. On the information supplied by the member representing the licensee the committee decided to write to the President of the Grain Dealers' Association. Accordingly the committee heard the municipality and the grain dealers' association. They put their case very briefly and no extraneous matter was referrred to.

5. The Association of Electrical Undertakings itself appreciates that the genuine representatives of the consumers should be heard. It is wrong to hear the consumers towards the end of the deloberations only within a restricted field as suggested by the Association. It is but appropriate that the consumers are heard at the early stage of the deliberations of the committee. No "miscellaneous outsiders" were called or allowed to air their uninformed views.

6. The committee does not wish to depart from the procedure laid down under the Act and is not intending to recommend to Government "compromise charges". The committee is making their report according to the provisins of law, on the data collected. Three members of the the committee have already signed the report, and as the other two members had expressed that they would record dissenting minutes copies of the draft report have been sent to them for being endorsed.

7. It appears that the Association of Electrical Undertakings has got from a member of the committee a copy of the draft report circulated among the members for endorsement.

The apprehensions of the Associaiton that the report will not be consistent with the data and the Act is not well founded.

Sd/-
2/6/50
Chairman, Rating Committee.

U.O.R. to P.W.D. No.R.C.M/27 dated 2nd June 1950.

through the Electrical Engineer and Secretary, Rating Committee.

Passed on, with compliments.

2. It is absolutely inappropriate on the part of the Association of Electrical Undertakings to complain to Government about the procedure, etc., adopted by the Rating Committee, particularly when the Association itself has its member on the Committee So far as the work of the Committee is concerned, the same is being done entirely in accordance with the principles of natural justice, and so long as the licensee concerned is being given every reasobalble opportunity of being heard, the Association should have no grounds whatever to complain.

3. It is suggested that the Association may be informed that the Rating Committee is fully at liberty to adopt its own procedure for investigation, etc. for the purpose of section 57 of the Electricity (Supply) A t, 1948, and that Government does not desire to interfere in the working of the Committee.

Sd/-
Electrical Engineer to Govt. &
Secretary, Rating Committee.

U.O.R. to Govt. in the P.W.D.

No. R.C.M./27 dated 2nd June 1950.

El, Br. (I).

A copy of letter No. AEU/35/998/50, dt. the 11/5/50, from the Assn. of Electrical undertakings, B'bay Province, is attached. The Elecl. Commr. is requested u.o. to offer his comments on the Assns. observation under the item "B'bay XXX power shortage" by saturday, the 3rd June 1950, at the latest.

Id
30/5/50. Id 30/5/50

V. Urgents

U.O. to the Elecl. Commr. dt. 31.5.48.

Below P.W.D. U.O.R. No. 571/48 dated 31st May, 1950.

ELECTRIC GRID OFFICES.

It i s presumed that the Association's suggestion for diverting the Bokaro plant to Bombay is influenced by two considerations, viz. (1) that it can be put into commission earlier than the 3 units of 15 MW sets proposed to be ordered by Bombay Government, and (2) that the 3 sets proposed to be ordered by Government will not meet the requirements of the case.

2. Dealing with the first objective, although the Bokaro plant may itself be ready, obviously it cannot be installed without the construction of suitable turbine house and boiler house etc. Other special works such as those for making available adequate quantities of boiler feed water and cooling water for the Turbo sets will have to be made. For the 15 MW sets proposed to be ordered by Government the present Chola power house is being extended. The existing crane and other like facilites will be used. For these 3 x 15mW sets Government is making suitable arrangements for water supply which will take considerable time and will fit in with the programme of commissioning these sets. In other words, the Bokaro plant even if the D.V.C. made it available and the World Bank which had advanced money for a specific purpse, agreed to the proposal cannot be put into commission any earlier than the 3x 15 mW sets.

It may be pointed out that the tenders for these sets are due on the 26th of the current month and orders will be placed very soon thereafter. Meanwhile, all the required field work connected with the extension of the boiler and turbine house as well as pump

house in the bed of the river is already in hand. Government of Bombay has also in hand the work in connection with the supply of boiler feed water. Enquiry has shown that some of the manufacturers of power plant will agree to a penalty and bonus clause to put these into commission within 2 years of the availability of ~~xx~~ import licence. The fears entertained by the Association regarding delay about the availability of power will as far as possible be taken care of.

3. As regards the second point about the adequacy of the power plant proposed to be ordered, the Association seem to be under a misapprehension. They seem to think that the 3 x 15 mW sets are the be all and end-all of Government proposals. The fact of the matter is that this is only an interim arrangement. This plant is expected to meet the situation till 1955-57 by which year all possible effort is being made to make Koyna power available in the City of Bombay. The Koyna power to the extent of some 200,000 kW is being planned to be supplied to the City of Bombay to augment the Tata supply.

4. The Association seem to have mis-understood the question of standby. At present, there are 17 hydro sets one more will go into commission some time next year. Likewise, there are 4 steam sets at Chola and 2 more will go into commission next year. Obviously adequate standby is required for all these sets. The accepted standard in this respect is to have the largest capacity size as standby plus one or more other sets depending upon the total no. of sets that are in service. If, therefore, 50 mW Bokaro sets were installed, one of them will be a stadby. In the case of installation of 3 sets of 15 mW, the largest standby will be the 22mW set of Tatas. I am of the opinion that Government should be quite firm in this matter and inform the Association that it is not the intention of Government of consider further the question of diversion of the Bokaro plant to Bombay because the proposal as explained previously, is entirely impracticable.

Hydro + 17 + 1(51
Chola 4 + 2(,,)

15

To

Secy. to Government,
Public Works Department,
Bombay.

U. O. R. No. PIE -4/12358

Bombay 1: 3rd June, 1950.

17

PRESS NOTE

Complaints have been received by Government that certain Electrical undertaking in the Province have increased their rates after 30th September, 1949, when the Bombay Electricity (Surcharge) Act, 1946, expired.

Problems arising from the increase in rates were discissed by the Hon'ble Dr. Jivraj N. Mehta, Minister for public Works-Department, with the representatives of the Association of Electrical Undertakings, Bombay Province, in conferences held on Tuesday, 22nd November, 1949, and Wednesday, 30th November, 1949.

After a full and frank discussion which covered all outstanding issues, particularly the question of the period of depreciation of the assets and effects of devaluation on the working expenses of Electric Supply Companies, it was agreed that the Association would recommend to the Electrical Undertakings, without prejudice to their rights, that they might agree not to charge more than the rates (including surcharge) prevailing on 30th September, 1949, until Government are in a position to examine the Licensees finances. On the application made by the Licensee Government is taking steps to appoint a Rating Committee under Section 57 of the Electricity (Supply) Act, 1948, to examine the charges levied by the Matheran Electricity Supply Company and hopes to announce its personnel and constitution shortly. The Association will, it is understood, nominate their representative on such Committees.

With regard to the question of depreciation. Government is taking steps to obtain a report on the physical condition of assets of those Licensees who have applied for variation of the prescribed period. It was agreed that until Government passes order on the application of the Licensees the companies would be allowed to maintain the status quo ante during the current financial year.

Government are aware that it has been contended on behalf of certain Electrical Undertakings that they have a case for an increase in the current rates on account of the shorther life of assets prescrubed by the Act of 1948 and enhanced costs of operation on fuel, labour and materials. It would be in the interest of the companies and not less in the interest of the consumers to have the case for the increase scrutinized by a Rating Committee so that the whole question may be looked into thoroughly and neither party may have cause for complaint. The companies which desire a revision of the rutes prevailing on 30th September, 1949, or of the maxima fixed by the License are accordingly advised to apply to Government under Section 57 of the Electricity (Supply) Act, 1948, for the appointment of a Rating Committee. It is hoped that both the supply companies and the public will co-operate in the work of the Rating Committee.

MTJ

MTJ
27/8/56

No. 571/48-II-El. (I).

Public Works Department,
Bombay Castle, (Bombay No. 1),
15th December 1949.

From

The Secretary to the Government of Bombay,
Public Works Department.

To

The Electrical Licensees and sanction holders in the Province of Bombay.

Subject:- Rates for the supply of electricity.

Dear Sir/Sirs,

I am directed to enclose a copy of the press note issued on the 10th December 1949 for your information and guidance.

Yours faithfully,

Sd/-
(G.V. Bedekar),
For Secretary to the Government of Bombay,
Public Works Department.

D.A.- Press Note.

Copy, with a copy of the press note, for information to the Secretary, of the Association of Electrical Undertakings, Bombay Province.

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571/48

El. Br.(I). P. W. D.

The Secy. has directed that a copy of the report of the Matheran Rating Committee be sent to the Govt. of India with a covering d-o. letter to shri Gokhale, Secy. to the G. of I., Ministry of Works, Mines & Power stating that it is first of its kind & is being gazetted & that the suggestions made therein have already been brought to the notice of the G. of I. in our letter No. 1925/48El. (I) dt the 9-8-50. The necessary draft d. o. is put up for appl.

2. Necessary action reg: the publication of the Report etc. is being taken separately.

Id
18/8/50

Id
19/8

D.O. No. 571/48-Elf. (I)

23

Public Works Department,
Secretariat,
Bombay No. 1, 21st August 1950.

You are probably aware that under the powers conferred by sub-section (2) of Section 57 of the Electricity (Supply) Act, 1948, this Government has constituted Rating Committees in accordance with the provisions of sub-section (4) and (5) to examine charges of certain licensees. We have so far appointed 15 Rating Committees and the first report to be received is that of the Rating Committee for the Matheran Electric Supply Company. I enclose a copy thereof which I trust you will find interesting. As provided by law, we are taking steps to publish the reports in the Bombay Government Gazette and to make an order fixing the rates in accordance with the reports.

2. You will notice from the report (paragraph 8) that the Committee has pointed out inter alia that the Act does not provide for representation of the consumers on the Rating Committee, which is necessary and that there should be restriction on management expenses - vide paragraph 18 ibid. These points have already been brought to the notice of the Government of India in the Ministry of Works, Mines and Power for suitable amendment of the Electricity (Supply) Act, 1948 in paragraph 4 of our official letter No. 1925/48-Elf.(I), dated the 9th August 1950, regarding amendments of that Act.

3. The minute of dissent is from Shri Javeri, the representative on the Rating Committee of the Assiciation of Electrical Undertakings. The other Members of the Committee are - Shri Shah, Auditor, Shri Maneckji, Licensee's representative and Shri Nadkarni, Electrical Engineer to Bombay Government.

4. The Matheran Electric Supply Company has already adjusted its charges (from the beginning of the season i.e. April 1950) and raised them to the limits mentioned in the report.

Sd/- o/c
(G.V.Bedekar).

~~Shri B. K. Gokhale, I.C.S.,~~
~~Secretary to the Government of India,~~

24

Shri B. K. Gokhale, I.C.S.,
Secretary to the Government of India,
Ministry of Works, Mines and Power,
New Delhi.

Issued
21/8/50 Id
with Draft

D.A. Report.

Very Urgent

Office of the Chairman of Rating Committees.

The Rating Committee constituted under Section 57 of the Electricity (Supply) Act, 1948, has to make recommendations to Government regarding the charges for electricity which the licensee may made: and such recommendations are not to prevent the licensee from earning clear profit according to the provisions of the Act. Under para I of the Sixth Schedule to the Act, the licensee has to adjust his rates so that his clear profit is not to exceed the amount of reasonable return.

The expression "clear profit" is defined in Clause (2) of para XVII of the said Schedule; and the expression "reasonable return" is defined in Clause (9) of the said paragraph.

The difference between the income and the expenditure together with the specific appropriations is the clear profit, and reasonable return includes any amount found by applying the standard rate namely 5 per cent/clear to the capital base. Under item (ix) of sub-clause (b) of the said clause (2), expenditure incurred on management including management including managing agent's remuneration as provided for in para XIII is one of the items to be taken into consideration on the side of expenditure. The interpretation of this item (IX) has created some difficulty, as two divergent views are expressed by the members of the Matheran Rating Committee.

The licensee may generate or purchase energy and distribute and sell it at one place and must maintain a staff for that purpose and also for general management at that place. He may also maintain a staff including the managing agent at a different place which he may describe as his head office. This latter staff may do the work of the office of the managing agent which may include work in connection with the generation and distribution of energy, and the general management by the licensee. What should be the ordinary remuneration of the Managing Agent and what should be his office allowance has been defined in para XIII of the Schedule.

The question is whether under the said item (IX) expenditure on account of management is to include only sums provided for in the said para XIII or all the expenditure that the licensee may incur at the place of generation and distribution and also at the head office. The Rating Committee for Matheran is divided in its opinion.

One view is that for determining clear profit only such sums as are provided for in the said para XIII on account of ordinary remuneration of the Managing Agent and on account of his office allowance is the expenditure on management snd such sums only should be taken into consideration. The actual expenditure incurred by the licensee should not be. The other view is that para XIII only restricts Managing agent's remuneration and office all other sums expended on account of the staff etc. in the office of the licensee must be taken into consideration.

In support of the first view it is urged that the Act defines what is clear profit, and the wording of the said item (IX) is clear and unambigous. Management undoubtedly includes the remuneration of the Managing Agent and there is no doubt that besides this the licensee of the office of the managing agent and also on account of the head office. A licensee may spend a lot. He may pay his managing agent any remuneration he pleases, he may entertain any staff for management. The law says that on account of management, only the sums arrived at under the said para XIII are to be taken into consideration. It is not the intention of the Act that the consumers should be saddled with the actual expenditure incurred by the licensee on account of management. The words "as provided for in para XIII" qualify all the preceding words " management including Managing Agent's remuneration." It will be wrong to say that the words " as provided in para XIII" qualify "Managing Agent's remuneration": otherwise what is the sense of providing for "office allowance" in sub-para (3) of paragraph XIII? Where does that item go? The intention of the Act seems to be that the licensee should meet the expenditure on account of management in excess of that provided for

for in para XIII from his 5 per cent. An analysis of para XIII will show the while sub-paras (1) and (2) refer to the ordinary remuneration of the managing agent, sub-para (3) refers to office allowance drawn by the Managing Agent Office allowance includes the salaries and wages of all persons employed in the office of the managing agent but it is not to include the salaries of the engineering staff employed for the purposes of the undertaking. This clearly shows that office allowance includes everything except the salaries of engineering staff and that together with the managing agent's remuneration is the expenditure on account of management.

In support of the other view it is urged that the test to be applied is whether the staff at the head office is employed in the office of the managing agent and does the work of the managing agent and is the employee of the managing agent. If the answer to this question is in the affirmative then the expenditure on that account would be office allowance. If the answer to the question is in the negatibe and if the staff is doing the work of the Company the staff will not be employed in the office of the managing agent. It is urged that the expenses incurred by the Company is on account of management and must be taken into consideration irrespective of the office allowance referred to in sub-para (3) of paragraph XIII. It is urged that in addition to themanaging agent and his staff the Company has to employ a staff for management. The licensee is not expected to incur this expenditure from his 5 per cent but he must get it from the consumers. Item (IX) does, it is urged, include this. Management is a wide expression and every pie spent for that purpose has to be taken into consideration. Only the sum on account of the managing agent's remuneration and office allowance is restricted.

It will however appear that the Act does not make provision for the separate establishment of managing agent as distinct from the establishment of the Company. The clear meaning of the expression " Manabement including

managing agent's remuneration as provided for in para XIII" would appear to mean that whatever is provided for in para XIII only should be taken into account as an item of expenditure on account of management. The managing agent may have a staff. The Company or the head office of the Company may have a staff. Whatever may be the remuneration of the managing agent or the salaries of his staff and whatever may be the salaries of the staff employed by the Company at the head office or at any other place, what is prescribed in para XIII only goes for management.

It will thus appear that while the one view is that ~~whether~~ whatever expenditure may be incurred on account of management by the Company, under the said item (ix) for the purposes of determining the clear profit only such it ems as come within para XIII are to be taken into account: the other view is that all the expenditure incurred by the licensee must be taken into account provided that the remuneration of the managing agent and his office allowance is to be restricted to the limits specified in para XIII.

As the members of the Matheran Rating Committee hold different views on this point of great consequence, it seems appropriate and necessary to have an authoritative opinion of the legal adviser of the Government.

The Chairman feels that the Givernment may be requested to obtain the opinion of the Rememberancer of Legal Affaris and/or of the Advocate General on this important question at a very early date. The Rating Committee for Matheran has completed the collection of data and is expected to meet as soon as Government's decision about varying the prescribed period is known; and it is extremely desireable that legal opinion on this important point is obtained immediately.

Id
24.III. 50

U.O.R. to P.W.D. No. R.C. Misc/ 13 dated 24th March 1950.

29

D.O.No.R.C.Misc/14.

Office of the Chairman,
Rating Committee,
P.W.D., Secretariat,
Bombay, 24th March 1950.

My dear Bedekar,

I enclose an u.o.r. requesting Government to obtain legal opinion on an important point, the decision on which will materially affect the final rates. There is no provision under which my opinion can prevail in the Committee and in case the legal advisers of Government do not agree with the view taken by the licensee, my hands will be strengthened and Mr. Nadkarni and Mr. Shah, may fall in with me. The point is not free from doubt, but I will have the satisfaction that the view favourable to the consumers has been thrashed out, even though the legal opinion favours the licensee.

I shall be glad if you could obtain the opinion within a week, as the managing Matheran committee is expected to meet for final deliberations.

Yours sincerely

Sd/-

G. V. Bedekar, Esquire, I.C.S.,
Secretary to the Government of Bombay,
Public Works Department.

Immediate

May be referred to the R.L.A. with the request to let us have his opinion within a week.

The Elce. commr. may also be assued, separately, to advise.

Id
24/3

571/48
23664 & 23665

El. Br. (I). P.W.D.

The papers may be refd. u.o. to the R.L.A. with a request to give his opinion within a week.- vide Secy's note overleaf.

2. Action reg: 2nd para of the Secy's note have been taken separately.

Id
24/3/50

Id
24/3/50

Immediate

U .o. to R.L.A. dt. 24-3-50.

R.L.A. has directed that this case should be submitted to A.L.R. direct after inwaeding. 'A' Branch will do it accordingly.

Id
25/3

A Branch.

Office of the R.L.A.

The question raised for the R.L.A's consideration by the Chairman of the Rating Committee constituted under section 57 of the Electricity (Supply) Act, 1948, is whether item (ix) in clause (2)(b) of paragraph XVII of the Sixth Schedule to the Electricity (Supply) Act, 1948 includes the staff maintained by the licensee in his office as well as in the Managing Agents' office.

Para XIII (1) of the Sixth Schedule relates to the ordinary remuneration of managing agent excluding officer allowance, while clause (3) relates to an office allowance drawn by a managing agent which shall include the salaries and wages of all persons employed in the office of the managing agent but not the salaries of the engineering staff employed for the purpose of the purpose of the undertaking. It is, therefore, apparent that if the "management" in item (ix) of sub-clause (b) of clause (1) of para. XVII was intended to be narrowed down to the managing agents' office staff, there is absolutely no reason why the expression "management" which has a wider significance should have been used. The managing agents' remuneration has been included in the mangement in item (ix) because ordinarily the expenditure on management would not include the managing agents' remuneration. It is, therefore, apparent that the words "as provided for in paragraph XIII" would qualify only the managing agents' remuneration and not management in item (ix). We will otherwise be doing violence to language; for it is obvious that paragraph XIII does not provide for management but only

but only for the managing agents' remuneration. As observed by Lawrence J. in Southern (S) v. Aldwych Property Trust Ltd. (1940 2 K.B. 266) the word "management" has its ordinary meaning and includes all the ordinary expenses of management of the property which falls to be taxed under Schedule A. The expression "management" in item (ix) also appears to have been used in its ordinary sense meaning the whole staff maintained by the licensee for the administration of the undertaking. This is also apparent from the fact that in assesssing the clear profits, the expenses incurred by the licensee over the staff maintained for the undertaking cannot be ignored.

Sd/-
31/3/50

Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 4431 , dated the 1st April 1950.

Immediate

Copy to be sent today to the Chairman of Rent Committee.

Id
3/4

Done, Sir.

Id
3/4/50

33

571/48

El. Br. (I).

P. W. D.

These papers may be refreed u.o to the Elecl. Commr. for his advise on the point raised by the Chairman, Rating Committee as directed by the Secy. The El. Commr. is requested to treat this reference as immediate.

Id
24/3/50.

Id
24/3/50

Immediate

U.O. to Elecl. Commr. dt. 24-3-50.

35

Below P.W.D. U.O.R. No. 571/48 dated 24th March, 1950.

Electric Grid Offices.

It appears that the intention of the framers of the Electricity (Supply) Act 1948 was to limit the Managing Agents' remuneration in the form of agency commission and the office allowance only and not other expenses properly incurred by them for management.

In Clause XIII of the sixth Schedule to the Act, the Managing Agents' remuneration is shown as consisting of two items viz., a percentage on the net profit and a percentage on the operating and capital expenditure. The words "excluding office allowance" in Clause XIII(1) are included just to segregate the agents' remuneration by way of commission from the profits, from the other remuneration by way of office allowance, as both are to be calculated on different basis. If it were the intention of considering the office allowance as separate from the Agents' remuneration as shown in Clause XIII(1), Clause XVII(2) (b) (ix)would have been worded as "management as provided for in para XIII" instead of being worded as "management including managing agents' remuneration as provided for in para XIII". It would, therefore, appear that the agents' total remuneration alone, as stated in Clause XIII, does not make up the total management expenses and that there are other expenses which make up the total management expenses.

I am therefore of the view that the payment to the agent on account of the agency commission and office allowance only are restricted by the Act and no restriction is made on other expenses on account of management properly incurred by the Managing Agents.

Id
1-4-50

The Secy. to Govt.
P.W.D. Bombay.

U.O.R. No. PR -9 5477
Bombay,1: March, 1950

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